

EXHIBIT C

DuaneMorris®

FIRM and AFFILIATE OFFICES

NEW YORK
LONDON
SINGAPORE
PHILADELPHIA
CHICAGO
WASHINGTON, DC
SAN FRANCISCO
SILICON VALLEY
SAN DIEGO
LOS ANGELES
TAIWAN
BOSTON
HOUSTON
AUSTIN
HANOI
HO CHI MINH CITY

SETH A. GOLDBERG
DIRECT DIAL: +1 215 979 1175
PERSONAL FAX: +1 215 689 2198
E-MAIL: SAGoldberg@duanemorris.com

www.duanemorris.com

SHANGHAI
ATLANTA
BALTIMORE
WILMINGTON
MIAMI
BOCA RATON
PITTSBURGH
NEWARK
LAS VEGAS
CHERRY HILL
LAKE TAHOE
MYANMAR
OMAN
*A GCC REPRESENTATIVE OFFICE
OF DUANE MORRIS*

ALLIANCES IN MEXICO
AND SRI LANKA

September 2, 2020

VIA E-MAIL

The Honorable Robert B. Kugler
United States District Judge
District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

**Re: In re Valsartan/Irbesartan/Losartan Products Liability Litigation
Case No. 1:19-md-02875-RBK-JS**

Dear Judge Kugler:

I write on behalf of all of the defendants in the above-referenced action to supplement my letter regarding Judge Schneider's retirement dated July 9, 2020.

Although the Court has not requested additional information on this topic, Your Honor's email, dated July 22, 2020, noting that special masters have been appointed in 35 MDLs pending in courts throughout the U.S. prompted Defendants to ascertain the extent to which special masters were appointed in the 183 MDLs identified by the JPML as pending as of the date of Your Honor's email. See MDL Statistics Report - Distribution of Pending MDL Dockets by District (July 16, 2020), attached as Ex. A. Our evaluation¹ revealed the following information about the engagement of special masters in those MDLs, which we hope the Court will find useful in determining how to proceed with the management and referral of pre-trial issues upon Judge Schneider's retirement:

¹ See chart entitled MDLs Pending as of July 16, 2020, With Special Master Appointments, attached as Ex. B.

Duane Morris

The Honorable Robert B. Kugler
September 2, 2020
Page 2

- Of the 183 MDLs, special masters were appointed in 60, or approximately 33%.
- 97 special masters were appointed in those 60 MDLs, as more than one special master was appointed in some of these MDLs.
- Of the 97 special masters appointed, 65 were appointed in 45 MDLs with the consent of the parties, and another 27 were appointed in 16 MDLs without an objection from either party.
- Of the 97 special masters appointed, 69 were appointed in 41 MDLs to manage specific issues, such as settlement and attorney fee disputes, whereas 28 were appointed in 22 MDLs to manage general pre-trial discovery issues.
- Of the 78 individual special masters appointed in the 60 MDLs (some special masters were appointed in multiple MDLs), five were of a racially diverse background, 14 were women, and two were women of a racially diverse background.
- In the 6 MDLs where there was an objection to the reference to a special master, the objection was sustained in two of the MDLs and the objection was overruled in four of the MDLs.

The above figures demonstrate, among other things, that (i) special masters were referred in only approximately one-third of the 183 MDLs; (ii) in all but four of those MDLs the referrals were made with the consent of the parties (45) or without their objection (16); (iii) in the vast majority of MDLs (88%), general pre-trial discovery issues were being managed by the Court, as those issues were referred to special masters in just 22 MDLs; and (iv) a small number of the referrals were to special masters who were women (14) and/or of a racially diverse background (5).

That special masters were appointed in just one-third of the 183 MDLs, and that the majority of special master appointments (more than two-thirds) were for the management of a specific issue, is consistent with the Supreme Court's guidance that "the use of masters is to aid judges in the performance of specific judicial duties, as they may arise in the progress of a cause, and not to displace the court." *La Buy v. Howes Leather Co.*, 352 U.S. 249, 225 (1957) (internal citations and quotations omitted).

As all MDLs are by their inherent nature complex, and most are pending in District Courts with heavy caseloads, the vast majority of MDL courts were managing general pre-trial discovery and other issues without the appointment of a special master. This is consistent with Supreme Court and Third Circuit precedent providing that complex legal issues and heavy caseloads are not exceptional circumstances that warrant a reference to a special master. *La Buy*, 352 U.S. at 259 ("[C]ongestion in itself is not such an exceptional circumstance as to warrant a reference to a

Duane Morris

The Honorable Robert B. Kugler
September 2, 2020
Page 3

master. If such were the test, present congestion would make references the rule rather than the exception.”); *Prudential Ins. Co. v. U.S. Gypsum Co.*, 991 F.2d 1080, 1087 (3d Cir. 1993) (citing *La Buy* and emphasizing “[n]either the volume of work generated by a case nor the complexity of that work will suffice to meet the “exceptional condition” standard promulgated by Rule 53”); *Agostino v. Quest Diagnostics, Inc.*, No. 04-4362, 2012 WL 2344865, at *1 (D.N.J. June 20, 2012) (“[The] appointment of a special master must be limited in scope and is not justified simply because of docket congestion or the complexity of factual and/or legal issues.”). Applying these precedents to our MDL, Your Honor’s appointment of Magistrate Judge Schneider to manage pre-trial discovery issues, notwithstanding their complexity or the heavy caseload in this Court, was entirely consistent with the holdings in *La Buy* and *Prudential* and with the practice and experience of other MDL courts as referenced above.

Similarly, in the four MDLs where a special master was appointed over an objection of one of the parties the above principles controlled. In *In re: Domestic Drywall Antitrust Litigation*, the Court appointed a special master to evaluate the specific question whether class counsels’ fee request of 1/3 of the class recovery was fair. See Order, MDL No. 2437 (E.D. Pa. Sept. 12, 2018) (attached as Ex. C). In *In re: National Football League Players’ Concussion Injury Litigation*, a special master – referred to as a “special investigator” – was appointed to investigate claims of fraud arising in connection with the implementation of the settlement. See Order, MDL No. 2323 (E.D. Pa. Dec. 10, 2018) (attached as Ex. D). And, in *In re: Cathode Ray Tube Antitrust Litigation*, the appointment of a second special master was necessary because, “in addition to simple congestion,” the Court “need[ed] to complete an incredible volume of highly complex motion work to ensure a trial schedule that will be fair and equitable to all involved parties;” specifically, “at least 86-91 complex pending motions which must all be decided within four months.” See Order, MDL No. 1917 (N.D. Cal. Sept. 11, 2015) (attached as Ex. E), p. 2.

In *In re: Liquid Aluminum Sulfate Antitrust Litigation*, the “breadth and frequency of the parties’ discovery disputes,” which the Court noted were likely to continue with regularity into the foreseeable future, warranted the appointment of a special master to manage pre-trial discovery issues. See Order, MDL No. 2687 (D.N.J. Mar. 13, 2018) (attached as Ex. F), pp. 2, 4. There, in just eight months, the parties “made more than 50 individual filings regarding contested discovery or case management issues,” and “raised more than a dozen discrete disputes, which have spanned more than 200 pages of single spaced letter briefing.” *Id.* at 2. The reference to a special master was proposed by presiding Magistrate Judge Joseph Dickson over an objection of one of the parties. In making the appointment, Judge Linares noted that neither “the number of disputes at issue or the need for [] intensive case management is inappropriate in a case of this size and complexity,” *id.* at 3, but “the level of case management” required by the parties in that MDL was “simply not sustainable given the docket congestion in District of New Jersey and the press of other matters on the Court’s docket,” especially given judicial vacancies in the District of New Jersey. *Id.* at 4.

In contrast to *In re: Liquid Aluminum Sulfate*, by the time he retires at the end of the year, Magistrate Judge Schneider will have guided the parties through the completion of written

Duane Morris

The Honorable Robert B. Kugler
September 2, 2020
Page 4

discovery, including document requests and productions Plaintiff and Defendant fact sheets, as well as a deposition protocol, and this action will be entering into a new phase focused less on discovery and more on the merits of Plaintiffs' general causation claims and eventual motion for class certification. Unlike *In re Liquid Aluminum Sulfate*, the history of the parties' disputes in this action, and Magistrate Judge Schneider's management of them, demonstrates that issues that might arise between the parties in the next phase of this litigation can be efficiently and effectively managed by Magistrate Judge Williams or Magistrate Judge Donio.

In addition to the above, although defendants have been unable to collect complete cost information regarding special master appointments in all of the 183 MDLs, of those MDLs for which such information can be discerned, it appears the average hourly rate for special masters appointed in the New Jersey District Courts is \$830 (high \$1200, low \$600), the average hourly rate for special masters across the entire Third Circuit is \$600, and the average hourly rate for special masters among all MDLs is \$560. *See Ex. B.* Given the number of hours a special master might expend managing general pre-trial discovery and other issues in this MDL, which is expected to proceed for several years, an hourly rate between \$600 and \$830 would likely correspond to many millions of dollars in special master fees that would be imposed on the parties should a special master be appointed following Judge Schneider's retirement.

Defendants hope that the foregoing information is helpful to the Court, and I look forward to further discussing this topic with the Court at Your Honor's convenience. The Defendants remain grateful for Your Honor's courtesies and careful consideration of this matter.

Respectfully,

/s/ *Seth A. Goldberg*
Seth A. Goldberg

Enclosures

cc: Adam Slater, Esq.

Ex. A

United States Judicial Panel on Multidistrict Litigation

Report Date: 7/16/2020

MDL Statistics Report - Distribution of Pending MDL Dockets by District

MDL Filters:

Status: Transferred

Limited to Active Litigations

District	Judge (Title)	Docket No.	Litigation	Actions Now Pending	Total Actions (Historical)
ALN	R. David Proctor (U.S. District Judge)	MDL -2406	IN RE: Blue Cross Blue Shield Antitrust Litigation	59	86
AZ	David G. Campbell (U.S. District Judge)	MDL -2641	IN RE: Bard IVC Filters Products Liability Litigation	2,085	8,692
CAC	Andre Birotte, Jr (U.S. District Judge)	MDL -2814	IN RE: Ford Motor Co. DPS6 PowerShift Transmission Products Liability Litigation	955	1,097
	Philip S Gutierrez (U.S. District Judge)	MDL -2826	IN RE: Uber Technologies, Inc., Data Security Breach Litigation	11	18
	John A. Kronstadt (U.S. District Judge)	MDL -2905	IN RE: ZF-TRW Airbag Control Units Products Liability Litigation	25	25
	James V. Selna (U.S. District Judge)	MDL -2151	IN RE: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation	12	460
CAN	Charles R. Breyer (Sr. District Judge)	MDL -1913	IN RE: Transpacific Passenger Air Transportation Antitrust Litigation	26	26
	Charles R. Breyer (Sr. District Judge)	MDL -2184	IN RE: Google Inc. Street View Electronic Communications Litigation	21	21
	Charles R. Breyer (Sr. District Judge)	MDL -2672	IN RE: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation	967	1,881
	Charles R. Breyer (Sr. District Judge)	MDL -2796	IN RE: German Automotive Manufacturers Antitrust Litigation	38	39
	Edward M. Chen (U.S. District Judge)	MDL -2777	IN RE: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation	50	52
	Maxine M Chesney (Sr. District Judge)	MDL -2918	IN RE: Hard Disk Drive Suspension Assemblies Antitrust Litigation	28	29
	Vince Chhabria (U.S. District Judge)	MDL -2741	IN RE: Roundup Products Liability Litigation	3,460	3,570
	Vince Chhabria (U.S. District Judge)	MDL -2843	IN RE: Facebook, Inc., Consumer Privacy User Profile Litigation	36	41
	Edward J. Davila (U.S. District Judge)	MDL -2827	IN RE: Apple Inc. Device Performance Litigation	63	66
	James Donato (U.S. District Judge)	MDL -2801	IN RE: Capacitors Antitrust Litigation (No. III)	22	22
	Beth Labson Freeman (U.S. District Judge)	MDL -2834	IN RE: PersonalWeb Technologies, LLC, and Level 3 Communications, LLC, Patent Litigation	63	76
	Susan Yvonne Illston (Sr. District Judge)	MDL -2874	IN RE: RAH Color Technologies LLC Patent Litigation	4	6
	Lucy H. Koh (U.S. District Judge)	MDL -2752	IN RE: Yahoo! Inc. Customer Data Security Breach Litigation	29	31
	Lucy H. Koh (U.S. District Judge)	MDL -2773	IN RE: Qualcomm Antitrust Litigation	24	35
	William H. Orrick, III (U.S. District Judge)	MDL -2913	IN RE: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation	758	766
	Richard Seeborg (U.S. District Judge)	MDL -2691	IN RE: Viagra (Sildenafil Citrate) and Cialis (Tadalafil) Products Liability Litigation	0	1,076
	Jon S. Tigar (U.S. District Judge)	MDL -1917	IN RE: Cathode Ray Tube (CRT) Antitrust Litigation	56	75
	Jeffrey S. White (U.S. District Judge)	MDL -1791	IN RE: National Security Agency Telecommunications Records Litigation	1	50
	Jeffrey S. White (U.S. District Judge)	MDL -2555	IN RE: Coca-Cola Products Marketing and Sales Practices Litigation (No. II)	6	8
	Claudia Wilken (Sr. District Judge)	MDL -2541	IN RE: National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation	1	10
CAS	Michael M. Anello (U.S. District Judge)	MDL -2286	IN RE: Midland Credit Management, Inc., Telephone Consumer Protection Act (TCPA) Litigation	173	337
	Anthony J. Battaglia (U.S. District Judge)	MDL -2452	IN RE: Incretin-Based Therapies Products Liability Litigation	993	1,047
	John A. Houston (Sr. District Judge)	MDL -2295	IN RE: Portfolio Recovery Associates, LLC, Telephone Consumer Protection Act (TCPA) Litigation	134	165
	Janis L. Martino (U.S. District Judge)	MDL -2670	IN RE: Packaged Seafood Products Antitrust Litigation	78	83
DC	Paul L. Friedman (Sr. District Judge)	MDL -1869	IN RE: Rail Freight Fuel Surcharge Antitrust Litigation	12	24
	Beryl A. Howell (Chief Judge, USDC)	MDL -2925	IN RE: Rail Freight Fuel Surcharge Antitrust Litigation (No. II)	87	87
	Ellen Segal Huvelle (Sr. District Judge)	MDL -2665	IN RE: McCormick & Company, Inc., Pepper Products Marketing and Sales Practices Litigation	2	16
	Amy Berman Jackson (U.S. District Judge)	MDL -2664	IN RE: U.S. Office of Personnel Management Data Security Breach Litigation	1	22
	Colleen Kollar-Kotelly (U.S. District Judge)	MDL -2656	IN RE: Domestic Airline Travel Antitrust Litigation	105	111
	Randolph D. Moss (U.S. District Judge)	MDL -1880	IN RE: Papst Licensing Digital Camera Patent Litigation	14	21
	Emmet G. Sullivan (U.S. District Judge)	MDL -2165	IN RE: Endangered Species Act Section 4 Deadline Litigation	3	35
DE	Richard G. Andrews (U.S. District Judge)	MDL -2884	IN RE: Kerydin (Tavaborole) Topical Solution 5% Patent Litigation	2	3
	Richard G. Andrews (U.S. District Judge)	MDL -2902	IN RE: Sitagliptin Phosphate ('708 & '921) Patent Litigation	10	15
	Colm F. Connolly (Judge)	MDL -2912	IN RE: Palbociclib Patent Litigation	13	13
	Eduardo C. Robreno (Sr. District Judge)	MDL -2358	IN RE: Google Inc. Cookie Placement Consumer Privacy Litigation	1	27
	Leonard P. Stark (Chief Judge, USDC)	MDL -2895	IN RE: Sensipar (Cinacalcet Hydrochloride Tablets) Antitrust Litigation	6	6
	Leonard P. Stark (Chief Judge, USDC)	MDL -2896	IN RE: Auryxia (Ferric Citrate) Patent Litigation	6	6
	Leonard P. Stark (Chief Judge, USDC)	MDL -2930	IN RE: Entresto (Sacubitril/Valsartan) Patent Litigation	5	5
FLM	Gregory A Presnell (U.S. District Judge)	MDL -2557	IN RE: Auto Body Shop Antitrust Litigation	7	27
	Harvey E. Schlesinger (Sr. District Judge)	MDL -2626	IN RE: Disposable Contact Lens Antitrust Litigation	55	60
	Mary S. Scriven (U.S. District Judge)	MDL -2737	IN RE: 21st Century Oncology Customer Data Security Breach Litigation	18	18
FLN	M. Casey Rodgers (Chief Judge, USDC)	MDL -2734	IN RE: Abilify (Aripiprazole) Products Liability Litigation	1,042	2,810
	M. Casey Rodgers (Chief Judge, USDC)	MDL -2885	IN RE: 3M Combat Arms Earplug Products Liability Litigation	7,866	8,493

FLS	Roy K. Altman (Judge) Darrin P. Gayles (U.S. District Judge) James Lawrence King (Sr. District Judge) Kenneth A. Marra (Sr. District Judge) K. Michael Moore (Chief Judge, USDC) Federico A. Moreno (U.S. District Judge) Robin L. Rosenberg (Judge)	MDL -2914 MDL -2841 MDL -2036 MDL -1916 MDL -2832 MDL -2599 MDL -2924	IN RE: ERMI LLC ('289) Patent Litigation IN RE: MONAT Hair Care Products Marketing, Sales Practices and Products Liability Litigation IN RE: Checking Account Overdraft Litigation IN RE: Chiquita Brands International, Inc., Alien Tort Statute and Shareholders Derivative Litigation IN RE: Liquid Toppings Dispensing System ('447) Patent Litigation IN RE: Takata Airbag Products Liability Litigation IN RE: Zantac (Ranitidine) Products Liability Litigation	8 13 7 18 15 184 291	8 13 100 29 15 350 291
GAN	Jean-Paul Boulee (Judge) Richard W. Story (Sr. District Judge) Thomas W. Thrash, Jr (Chief Judge, USDC) Thomas W. Thrash, Jr (Chief Judge, USDC)	MDL -2933 MDL -2782 MDL -2084 MDL -2800	IN RE: TransUnion Rental Screening Solutions, Inc., Fair Credit Reporting Act (FCRA) Litigation IN RE: Ethicon Physiomesh Flexible Composite Hernia Mesh Products Liability Litigation IN RE: AndroGel Antitrust Litigation (No. II) IN RE: Equifax, Inc., Customer Data Security Breach Litigation	7 2,907 4 453	7 3,050 15 484
ILN	Elaine E. Bucklo (Sr. District Judge) Robert M. Dow, Jr (U.S. District Judge) Robert M. Dow, Jr (U.S. District Judge) Gary Feinerman (U.S. District Judge) Joan B. Gottschall (Sr. District Judge) Virginia M. Kendall (U.S. District Judge) Matthew F. Kennelly (U.S. District Judge) John Z. Lee (U.S. District Judge) Harry D. Leinenweber (Sr. District Judge) Manish S. Shah (U.S. District Judge)	MDL -2931 MDL -2817 MDL -2909 MDL -2705 MDL -2590 MDL -2867 MDL -2545 MDL -2492 MDL -2580 MDL -2842	IN RE: Delta Dental Antitrust Litigation IN RE: Dealer Management Systems Antitrust Litigation IN RE: Fairlife Milk Products Marketing and Sales Practices Litigation IN RE: 100% Grated Parmesan Cheese Marketing and Sales Practices Litigation IN RE: Navistar MaxxForce Engines Marketing, Sales Practices and Products Liability Litigation IN RE: Local TV Advertising Antitrust Litigation IN RE: Testosterone Replacement Therapy Products Liability Litigation IN RE: National Collegiate Athletic Association Student-Athlete Concussion Injury Litigation IN RE: Opana ER Antitrust Litigation IN RE: Chicago Board Options Exchange Volatility Index Manipulation Antitrust Litigation	25 18 8 46 41 22 3,365 498 14 25	25 21 8 53 48 22 7,871 500 14 28
INN	Robert L. Miller, Jr (Sr. District Judge)	MDL -2391	IN RE: Biomet M2a Magnum Hip Implant Products Liability Litigation	47	2,883
INS	Robert L. Miller, Jr (Sr. District Judge) Richard L. Young (Chief Judge, USDC)	MDL -2181 MDL -2570	IN RE: Method of Processing Ethanol Byproducts and Related Subsystems ('858) Patent Litigation IN RE: Cook Medical, Inc., IVC Filters Marketing, Sales Practices and Products Liability Litigation	0 7,253	22 8,418
KS	Daniel D. Crabtree (U.S. District Judge) John W. Lungstrum (Sr. District Judge) Julie A. Robinson (Chief Judge, USDC)	MDL -2785 MDL -2591 MDL -2887	IN RE: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation IN RE: Syngenta AG MIR162 Corn Litigation IN RE: Hill's Pet Nutrition, Inc., Dog Food Products Liability Litigation	7 4 30	9 2,434 35
KYE	Karen K. Caldwell (Chief Judge, USDC)	MDL -2809	IN RE: Onglyza (Saxagliptin) and Kombiglyze XR (Saxagliptin and Metformin) Products Liability Litigation	269	322
KYW	David J. Hale (U.S. District Judge)	MDL -2504	IN RE: Amazon.com, Inc., Fulfillment Center Fair Labor Standards Act (FLSA) and Wage and Hour Litigation	1	12
LAE	Carl J. Barbier (U.S. District Judge) Eldon E. Fallon (U.S. District Judge) Eldon E. Fallon (U.S. District Judge) Jane Triche Milazzo (U.S. District Judge)	MDL -2179 MDL -2047 MDL -2592 MDL -2740	IN RE: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 IN RE: Chinese-Manufactured Drywall Products Liability Litigation IN RE: Xarelto (Rivaroxaban) Products Liability Litigation IN RE: Taxotere (Docetaxel) Products Liability Litigation	1,017 141 22,170 12,708	6,089 385 31,964 15,245
MA	Denise J. Casper (U.S. District Judge) Nathaniel M. Gorton (U.S. District Judge) Timothy S. Hillman (U.S. District Judge) George A' O'Toole, Jr (Sr. District Judge) F. Dennis Saylor (U.S. District Judge) Indira Talwani (U.S. District Judge) Douglas P. Woodlock (Sr. District Judge)	MDL -2938 MDL -2878 MDL -2566 MDL -2677 MDL -2657 MDL -2768 MDL -2428	IN RE: Evenflo Company, Inc., Marketing, Sales Practices and Products Liability Litigation IN RE: Ranbaxy Generic Drug Application Antitrust Litigation IN RE: TelexFree Securities Litigation IN RE: Daily Fantasy Sports Litigation IN RE: Zofran (Ondansetron) Products Liability Litigation IN RE: Stryker LFIT V40 Femoral Head Products Liability Litigation IN RE: Fresenius GranuFlo/NaturalLyte Dialysate Products Liability Litigation	28 6 1 81 453 485 17	28 6 12 86 711 894 4,516
MD	Catherine C. Blake (U.S. District Judge) Paul W. Grimm (U.S. District Judge)	MDL -2775 MDL -2879	IN RE: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation IN RE: Marriott International, Inc., Customer Data Security Breach Litigation	805 79	874 92
MIE	Sean F. Cox (U.S. District Judge) Sean F. Cox (U.S. District Judge) David M. Lawson (U.S. District Judge) Matthew F. Leitman (U.S. District Judge)	MDL -2311 MDL -2901 MDL -2744 MDL -2818	IN RE: Automotive Parts Antitrust Litigation IN RE: Ford Motor Co. F-150 and Ranger Truck Fuel Economy Marketing and Sales Practices Litigation IN RE: FCA US LLC Monostable Electronic Gearshift Litigation IN RE: General Motors Air Conditioning Marketing and Sales Practices Litigation	275 22 18 15	321 22 39 15
MN	Michael James Davis (Sr. District Judge) Michael James Davis (Sr. District Judge) Joan N. Erickson (U.S. District Judge) Donovan W. Frank (Sr. District Judge) Paul A. Magnuson (Sr. District Judge) John R. Tunheim (Chief Judge, USDC)	MDL -1431 MDL -2795 MDL -2666 MDL -2441 MDL -2522 MDL -2642	IN RE: Baycol Products Liability Litigation IN RE: CenturyLink Sales Practices and Securities Litigation IN RE: Bair Hugger Forced Air Warming Devices Products Liability Litigation IN RE: Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation IN RE: Target Corporation Customer Data Security Breach Litigation IN RE: Fluoroquinolone Products Liability Litigation	2 25 14 364 111 43	9,107 29 5,859 3,599 114 1,264
MOE	Henry Edward Autrey (U.S. District Judge) Stephen N. Limbaugh, Jr (U.S. District Judge) Rodney W. Sippel (Chief Judge, USDC)	MDL -2382 MDL -2820 MDL -1964	IN RE: Emerson Electric Co. Wet/Dry Vac Marketing and Sales Practices Litigation IN RE: Dicamba Herbicides Litigation IN RE: NuvaRing Products Liability Litigation	8 42 1	8 50 2,002

MOW	Stephen R. Bough (U.S. District Judge) Gary A. Fenner (Sr. District Judge) Gary A. Fenner (Sr. District Judge)	MDL -2936 MDL -2567 MDL -2709	IN RE: Smitty's/CAM2 303 Tractor Hydraulic Fluid Marketing, Sales Practices and Products Liability Litigation IN RE: Pre-Filled Propane Tank Antitrust Litigation IN RE: Dollar General Corp. Motor Oil Marketing and Sales Practices Litigation	8 0 20	8 38 26
NH	Landya B. McCafferty (U.S. District Judge)	MDL -2753	IN RE: Atrium Medical Corp. C-Qur Mesh Products Liability Litigation	2,241	2,275
NJ	Madeline C. Arleo (U.S. District Judge) Madeline C. Arleo (U.S. District Judge) Claire C. Cecchi (U.S. District Judge) Claire C. Cecchi (U.S. District Judge) Katharine S Hayden (Sr. District Judge) Robert B. Kugler (Sr. District Judge) Robert B. Kugler (Sr. District Judge) Brian R. Martinotti (U.S. District Judge) Brian R. Martinotti (U.S. District Judge) Peter G. Sheridan (Sr. District Judge) Michael A. Shipp (U.S. District Judge) Freda L. Wolfson (Chief Judge, USDC) Freda L. Wolfson (Chief Judge, USDC)	MDL -2687 MDL -2904 MDL -1663 MDL -2789 MDL -2020 MDL -2606 MDL -2875 MDL -2750 MDL -2921 MDL -2332 MDL -2779 MDL -2243 MDL -2738	IN RE: Liquid Aluminum Sulfate Antitrust Litigation IN RE: American Medical Collection Agency, Inc., Customer Data Security Breach Litigation IN RE: Insurance Brokerage Antitrust Litigation IN RE: Proton-Pump Inhibitor Products Liability Litigation (No. II) IN RE: Aetna, Inc., Out-of-Network "UCR" Rates Litigation IN RE: Benicar (Olmesartan) Products Liability Litigation IN RE: Valsartan, Losartan, and Irbesartan Products Liability Litigation IN RE: Invokana (Canagliflozin) Products Liability Litigation IN RE: Allergan Biocell Textured Breast Implant Products Liability Litigation IN RE: Lipitor Antitrust Litigation IN RE: FieldTurf Artificial Turf Marketing and Sales Practices Litigation IN RE: Fosamax (Alendronate Sodium) Products Liability Litigation (No. II) IN RE: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation	70 52 1 13,715 3 1 531 442 143 1 16 269 18,283	85 53 52 16,565 13 2,311 566 1,206 149 33 17 1,278 18,527
NM	James O. Browning (U.S. District Judge) William P. Johnson (Chief Judge, USDC)	MDL -2695 MDL -2824	IN RE: Santa Fe Natural Tobacco Company Marketing and Sales Practices Litigation IN RE: Gold King Mine Release in San Juan County, Colorado, on August 5, 2015	17 5	17 5
NYE	Margo K. Brodie (U.S. District Judge) Brian M. Cogan (U.S. District Judge) Brian M. Cogan (U.S. District Judge) Nicholas G Garaufis (Sr. District Judge) Nina Gershon (Sr. District Judge)	MDL -1720 MDL -1738 MDL -2331 MDL -2221 MDL -2819	IN RE: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation IN RE: Vitamin C Antitrust Litigation IN RE: Propecia (Finasteride) Products Liability Litigation IN RE: American Express Anti-Steering Rules Antitrust Litigation (No. II) IN RE: Restasis (Cyclosporine Ophthalmic Emulsion) Antitrust Litigation	71 4 4 7 18	118 10 1,178 15 21
NYS	Vernon S. Broderick (U.S. District Judge) Vernon S. Broderick (U.S. District Judge) Naomi Reice Buchwald (Sr. District Judge) Valerie E. Caproni (U.S. District Judge) Valerie E. Caproni (U.S. District Judge) Andrew L. Carter, Jr (U.S. District Judge) P. Kevin Castel (Sr. District Judge) Paul A. Crotty (Sr. District Judge) George B. Daniels (U.S. District Judge) Paul A. Engelmayer (U.S. District Judge) Paul A. Engelmayer (U.S. District Judge) Jesse M. Furman (U.S. District Judge) Paul G. Gardepe (U.S. District Judge) Lewis A. Kaplan (Sr. District Judge) J. Paul Oetken (U.S. District Judge) William H Pauley, III (Sr. District Judge) Jed S. Rakoff (Sr. District Judge) Lorna G. Schofield (U.S. District Judge)	MDL -1358 MDL -2542 MDL -2262 MDL -2548 MDL -2573 MDL -2475 MDL -2742 MDL -2859 MDL -1570 MDL -2481 MDL -2767 MDL -2543 MDL -2673 MDL -2865 MDL -2704 MDL -2645 MDL -2941 MDL -2776	IN RE: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation IN RE: Keurig Green Mountain Single-Serve Coffee Antitrust Litigation IN RE: Libor-Based Financial Instruments Antitrust Litigation IN RE: Commodity Exchange, Inc., Gold Futures and Options Trading Litigation IN RE: London Silver Fixing, Ltd., Antitrust Litigation IN RE: North Sea Brent Crude Oil Futures Litigation IN RE: SunEdison, Inc., Securities Litigation IN RE: Zimmer M/L Taper Hip Prosthesis or M/L Taper Hip Prosthesis with Kinectiv Technology and Versys Femoral Head Products Liability Litigation IN RE: Terrorist Attacks on September 11, 2001 IN RE: Aluminum Warehousing Antitrust Litigation IN RE: Mirena IUS Levonorgestrel-Related Products Liability Litigation (No. II) IN RE: General Motors LLC Ignition Switch Litigation IN RE: Treasury Securities Auction Antitrust Litigation IN RE: Customs and Tax Administration of the Kingdom of Denmark (Skatteforvaltningen) Tax Refund Scheme Litigation IN RE: Interest Rate Swaps Antitrust Litigation IN RE: Kind LLC "All Natural" Litigation IN RE: Nine West LBO Securities Litigation IN RE: Farxiga (Dapagliflozin) Products Liability Litigation	15 20 48 28 9 0 15 181 330 4 0 9 31 33 184 10 11 11 17 2	190 28 78 29 9 15 34 182 338 35 926 852 43 185 11 12 19 68
NYW	Geoffrey W. Crawford (U.S. District Judge)	MDL -2903	IN RE: Fisher-Price Rock 'n Play Sleeper Marketing, Sales Practices, and Products Liability Litigation	16	16
OHN	James S. Gwin (U.S. District Judge) Jeffrey J. Hellmick (U.S. District Judge) Dan A. Polster (U.S. District Judge)	MDL -2807 MDL -2197 MDL -2804	IN RE: Sonic Corp. Customer Data Security Breach Litigation IN RE: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation IN RE: National Prescription Opiate Litigation	9 846 2,850	11 10,313 2,897
OHS	Edmund A. Sargus, Jr (Chief Judge, USDC) Edmund A. Sargus, Jr (Chief Judge, USDC)	MDL -2433 MDL -2846	IN RE: E. I. du Pont de Nemours and Company C-8 Personal Injury Litigation IN RE: Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Products Liability Litigation	74 3,591	3,688 3,615
OKW	Timothy D. DeGiusti (U.S. District Judge)	MDL -2792	IN RE: Samsung Top-Load Washing Machine Marketing, Sales Practices and Products Liability Litigation	28	28
OR	Michael H. Simon (U.S. District Judge)	MDL -2828	IN RE: Intel Corp. CPU Marketing, Sales Practices and Products Liability Litigation	41	43
PAE	Harvey Bartle, III (Sr. District Judge) Michael M Baylson (Sr. District Judge) Anita B. Brody (Sr. District Judge) Jan E. DuBois (Sr. District Judge) Mitchell S Goldberg (U.S. District Judge) C. Darnell Jones, II (U.S. District Judge) Gene E.K. Pratter (U.S. District Judge)	MDL -2848 MDL -2437 MDL -2323 MDL -2460 MDL -2445 MDL -2833 MDL -2002	IN RE: Zostavax (Zoster Vaccine Live) Products Liability Litigation IN RE: Domestic Drywall Antitrust Litigation IN RE: National Football League Players' Concussion Injury Litigation IN RE: Niaspan Antitrust Litigation IN RE: Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation IN RE: FedLoan Student Loan Servicing Litigation IN RE: Processed Egg Products Antitrust Litigation	1,387 8 331 21 12 10 21	1,513 29 349 23 15 10 33

Case 1:19-md-02875-RMB-SAK

Document 625-3
PageID: 14677

Filed 11/11/20 Page 10 of 62

Eduardo C. Robreno (Sr. District Judge)	MDL -875	IN RE: Asbestos Products Liability Litigation (No. VI)	34	192,118	
Cynthia M. Rufe (U.S. District Judge)	MDL -1871	IN RE: Avandia Marketing, Sales Practices and Products Liability Litigation	0	5,299	
Cynthia M. Rufe (U.S. District Judge)	MDL -2724	IN RE: Generic Pharmaceuticals Pricing Antitrust Litigation	126	195	
PAM	John E Jones, III (U.S. District Judge)	MDL -2816	IN RE: Sorin 3T Heater-Cooler System Products Liability Litigation (No. II)	86	91
PAW	Donetta W. Ambrose (Sr. District Judge)	MDL -2862	IN RE: Diisocyanates Antitrust Litigation	12	12
	Joy Flowers Conti (Sr. District Judge)	MDL -2850	IN RE: Railway Industry Employee No-Poach Antitrust Litigation	26	26
RI	William E. Smith (Chief Judge, USDC)	MDL -2472	IN RE: Loestrin 24 Fe Antitrust Litigation	14	14
SC	Richard M. Gergel (U.S. District Judge)	MDL -2873	IN RE: Aqueous Film-Forming Foams Products Liability Litigation	725	725
	Bruce Howe Hendricks (U.S. District Judge)	MDL -2613	IN RE: TD Bank, N.A., Debit Card Overdraft Fee Litigation	11	13
	David C. Norton (U.S. District Judge)	MDL -2886	IN RE: Allura Fiber Cement Siding Products Liability Litigation	12	12
TXN	Sidney A. Fitzwater (Sr. District Judge)	MDL -2587	IN RE: IntraMTA Switched Access Charges Litigation	12	102
	David C. Godbey (U.S. District Judge)	MDL -2099	IN RE: Stanford Entities Securities Litigation	42	154
	James Edgar Kinkeade (U.S. District Judge)	MDL -2244	IN RE: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation	8,806	10,515
	Barbara M.G. Lynn (Chief Judge, USDC)	MDL -2835	IN RE: Iron Oak Technologies, LLC, Patent Litigation	9	12
TXS	Keith P Ellison (U.S. District Judge)	MDL -2185	IN RE: BP p.l.c. Securities Litigation	28	59
VAE	Rebecca Beach Smith (U.S. District Judge)	MDL -2836	IN RE: Zetia (Ezetimibe) Antitrust Litigation	15	16
	Anthony J. Trenga (U.S. District Judge)	MDL -2627	IN RE: Lumber Liquidators Chinese-Manufactured Flooring Products Marketing, Sales Practices and Products Liability Litigation	3	196
	Anthony J. Trenga (U.S. District Judge)	MDL -2743	IN RE: Lumber Liquidators Chinese-Manufactured Laminate Flooring Durability Marketing and Sales Practices Litigation	0	32
	Anthony J. Trenga (U.S. District Judge)	MDL -2915	IN RE: Capital One Consumer Data Security Breach Litigation	35	63
WVN	John P. Bailey (U.S. District Judge)	MDL -2493	IN RE: Monitronics International, Inc., Telephone Consumer Protection Act (TCPA) Litigation	1	38
WVS	Joseph R. Goodwin (U.S. District Judge)	MDL -2326	IN RE: Boston Scientific Corp. Pelvic Repair System Products Liability Litigation	278	26,644
	Joseph R. Goodwin (U.S. District Judge)	MDL -2327	IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation	325	40,869

Report Totals:	183		130,649	489,515
-----------------------	------------	--	----------------	----------------

Total Number of MDL Dockets: **183**Total Number of Transferee Districts: **44**Total Number of Transferee Judges: **151**

15 Chief Judge, USDC
 4 Judge
 41 Sr. District Judge
 91 U.S. District Judge

-- All Counts Are Based on the Report Filters Selected When Running the Report --

Docket Count	Range of the Number of Actions PENDING in a Docket	Percent of Dockets	Action Count	Percent of Actions
53	MDLs with between 0 and 10 Pending Actions	28.96%	218	0.17%
81	MDLs with between 11 and 100 Pending Actions	44.26%	2,560	1.96%
32	MDLs with 101 and 999 Pending Actions	17.49%	13,125	10.05%
17	MDLs with 1,000 or more Pending Actions	9.29%	114,746	87.83%

Docket Count	Range of the Number of TOTAL Actions in a Docket	Percent of Dockets	Action Count	Percent of Actions
18	MDLs with between 0 and 10 Actions	9.84%	132	0.03%
95	MDLs with between 11 and 100 Actions	51.91%	3,293	0.67%
31	MDLs with 101 and 999 Actions	16.94%	12,312	2.52%
39	MDLs with 1,000 or more Actions	21.31%	473,778	96.79%

Ex. B

MDLs PENDING AS OF JULY 16, 2020, WITH SPECIAL MASTER APPOINTMENTS

Northern District Of Alabama						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2406	In Re: BCBS Antitrust Litigation	R. David Proctor	Edgar C. Gentle, III	General pre-trial discovery issues	No objection	\$250 per hour
District Of Arizona						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2641	In Re: Bard IVC Filters Products Liability Litigation	David G. Campbell	Hon. Marina Corodemus (ret.)	Attorney fee issues	Consent	Not disclosed
Central District Of California						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2814	In Re: Ford Motor Co. DPS6 Powershift Transmission Products Liability Litigation	André Birotte Jr.	Gary A Feess	Settlement	No objection	Not disclosed
2151	In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation	James V. Selna	Hon. Steven Stone (ret.)	General pre-trial discovery issues	Consent	\$750 per hour
			Hon. John K. Trotter (ret.)	General pre-trial discovery issues	Consent	\$750 per hour
			Patrick A. Juneau, Esq.	Settlement	Consent	Not disclosed

Northern District Of California

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2184	In Re: Google Inc. Street View Electronic Communications Litigation	Charles R. Breyer	Douglas A. Brush	Specific discovery issue	Consent	Not disclosed
2672	In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation	Charles R. Breyer	Robert Mueller, Esq.	Settlement	Consent	Not disclosed
2777	In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation	Edward M. Chen	Kenneth Feinberg (Settlement Master)	Settlement	Consent	Not disclosed
2827	In Re: Apple Inc. Device Performance Litigation	Edward J. Davila	Hon. Rebecca Westerfield (ret.)	General pre-trial discovery issues	Consent	\$800 per hour
2801	In Re: Capacitors Antitrust Litigation (No. III)	James Donato	Jeffrey L. Bleich, Esq.	Settlement	Consent	Not disclosed
			Monica Ip,	Accounting issues	Consent	\$375 per hour
2913	In Re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation	William H. Orrick, III	Hon. Gail A. Andler	Oversee common benefit fund	No objection	Not disclosed
			Thomas J. Perrelli, Esq.	Settlement	No objection	Not disclosed

1917	In Re: Cathode Ray Tube (CRT) Antitrust Litigation	Jon S. Tigar	Hon. Charles A. Legge	Pre-trial matters, including specifically assigned discovery motions	Consent	Not disclosed
			Hon. Vaughn R. Walker	General pre-trial discovery issues	Consent	\$800 per hour
			Martin Quinn, Esq.	Fee issues	Consent	\$700 per hour
			Hon. James Larson	Non-discovery pretrial matters	Defendants objected	\$600 per hour
Southern District Of California						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2286	In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act (TCPA) Litigation	Michael M. Anello	Hon. Herbert B. Hoffman	Settlement	Consent	\$660 per hour
District Of Columbia						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2656	In Re: Domestic Airline Travel Antitrust Litigation	Colleen Kollar-Kotelly	Hon. Richard A. Levie	General pre-trial discovery issues	Consent	Not disclosed
1880	In Re: Papst Licensing Digital Camera Patent Litigation	Randolph D. Moss	Dr. Ronald D. Williams (technical advisor)	Technical or scientific issues	No objection	\$300 per hour
Northern District Of Florida						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2734	In Re: Abilify (Aripiprazole) Products Liability	M. Casey Rodgers	Ellen Reisman, Esq.	Oversee common benefit fund	Consent	Not disclosed

	Litigation		Cathy Yanni	Settlement	Consent	Not disclosed
2885	In Re: 3M Combat Arms Earplug Products Liability Litigation	M. Casey Rodgers	Ellen Reisman, Esq.	Oversee common benefit fund	No objection	Not disclosed
			Randall Sansom (CPA)	Oversee common benefit fund	No objection	Not disclosed
			Hon. David Herndon	Moving affirmative defenses into a posture for dispositive motion practice; specific discovery tasks	No objection	Not disclosed
Southern District Of Florida						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2599	In Re: Takata Airbag Products Liability Litigation	Federico A. Moreno	John Delionado, Esq.	General pre-trial discovery issues	Consent	Not disclosed
			Ryan Stumphauzer, Esq. (substitute)	General pre-trial discovery issues	Consent	Not disclosed
2914	In Re: ERMI LLC ('289) Patent Litigation	Roy K. Altman	Benjamin Widlanski, Esq.	General pre-trial discovery issues	No objection	\$500 per hour
2841	In Re: MONAT Hair Care Products Marketing, Sales Practices and Products Liability Litigation	Darrin P. Gayles	Naim Shakir Surgeon, Esq.	General pre-trial discovery issues	Consent	\$480 per hour

2924	In Re: Zantac (Ranitidine) Products Liability Litigation	Robin L. Rosenberg	Professor Jaime Dodge	Facilitate discussions with parties on pre-trial issues	Consent	Not disclosed
Northern District of Illinois						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2545	In Re: Testosterone Replacement Therapy Products Liability Litigation	Matthew F. Kennelly	Randi Ellis	Settlement	No objection	Not disclosed
2492	In Re: National Collegiate Athletic Ass'n Student- Athlete Concussion Injury Litigation	John Z. Lee	Hon. Wayne R. Anderson (ret.)	Settlement	Consent	Not disclosed
Northern District of Indiana						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2391	In Re: Biomet M2a Magnum Hip Implant Products Liability Litigation	Robert L. Miller, Jr.	No special master appointed	Plaintiffs requested appointment of special masters to oversee discovery	Defendants objected	n/a
District of Kansas						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2785	In Re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation. (only in <i>Sanofi</i> case)	Teresa J. James (Magistrate Judge)	Hon. Margaret R. Hinkle (ret.)	Specific discovery issue	Consent	\$500 per hour
2591	In Re: Syngenta AG MIR162 Corn Litigation	John W. Lungstrum	Ellen Reisman	Settlement	Consent	\$950 per hour

			Ellen Reisman	Attorney fee issues	No objection	Not disclosed
			Ellen Reisman	Settlement.	Consent	Not disclosed
			Judge Daniel J. Stack (ret.)	Settlement.	Consent	Not disclosed
Eastern District of Louisiana						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2179	In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010	Carl J. Barbier	Francis E. McGovern	Oversee communication and coordination of the MDL	Consent	Not disclosed
			Louis Freeh / Freeh Group	Settlement	Consent	Not disclosed
			John W. Perry, Jr.	Oversee common benefit fund	Consent	\$600 per hour
2047	In Re: Chinese-Manufactured Drywall Products Liability Litigation	Eldon E. Fallon	Michael K. Rozen	Settlement	Consent	Not disclosed
			Matthew Garretson	Settlement	Consent	Not disclosed
			Daniel Balhoff	Discreet discovery task	No objection	Not disclosed
2740	In Re: Taxotere (Docetaxel) Products Liability Litigation	Kurt D. Engelhardt	Kenneth W. DeJean	Oversee common benefit fund	No objection	\$400 per hour

District of Massachusetts						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2428	In Re: Fresenius Granuflo/Naturalyte Dialysate Products Liability Litigation	Douglas P. Woodlock	Eric D. Green	Settlement	Consent	Pro bono
District of Maryland						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2775	In Re: Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation	Catherine C. Blake	John W. Perry, Jr.	Settlement	Consent	\$625 per hour
2879	In Re: Marriott Int'l, Inc., Customer Data Security Breach Litigation	Paul W. Grimm	Hon. John Facciola (ret.)	General pre-trial discovery issues	Consent	\$500 per hour
Eastern District of Michigan						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2311	In Re: Automotive Parts Antitrust Litigation	Marianne O. Battani	Gene J. Esshaki	General pre-trial discovery issues	No objection	Not disclosed
District of Minnesota						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
1431	In Re: Baycol Products Liability Litigation	Michael J. Davis	Roger Haydock	Ensuring compliance with protective order	No objection	\$300 per hour
			John Borg	Supervise depositions in Europe	No objection	\$300 per hour

2617	In Re: Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation	Donovan W. Frank	Arthur J. Boylan (Magistrate Judge, ret.)	Settlement	Consent	Not disclosed
Eastern District of Missouri						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2820	In Re: Dicamba Herbicides Litigation.	Stephen N. Limbaugh	John S. Hahn	General pre-trial discovery issues	Consent	\$725 per hour
1964	In Re: Nuvaring Products Liability Litigation	Rodney W. Sippel	Judge Daniel Stack	Settlement	No objection	Not disclosed
District of New Jersey						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2332	In Re: Lipitor Antitrust Litigation	Peter G. Sheridan	Jose L. Linares	General pre-trial discovery issues	Consent	\$1000 per hour
2418	In Re: Plavix Marketing, Sales Practices and Products Liability Litigation (No. II)	Freda L. Wolfson	Peter H. Woodin, Esq.	General pre-trial discovery issues	Consent	Not disclosed
2687	In Re: Liquid Aluminum Sulfate Antitrust Litigation	Jose L. Linares	Judge Dennis M. Cavanaugh (ret.)	General pre-trial discovery issues	Some defendants objected	\$650 per hour
			Judge Faith Hochberg (ret.)	General pre-trial discovery issues	Some defendants objected	\$1200 per hour

2738	In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices And Products Liability Litigation	Freda L. Wolfson	Judge Joel Pisano, (ret.)	General pre-trial discovery issues	Consent	\$700 per hour
2750	In Re: Invokana Products Liability Litigation	Brian R. Martinotti	Judge David R. Herndon, (ret.)	Issues related to the common benefit fund	No objection	Not disclosed
2789	In Re: Proton-Pump Inhibitor Products Liability Litigation (No. II)¹	Claire C. Cecchi	No special master appointed	Plaintiffs requested the appointment of special master to address issues related to deposition scheduling and conduct	Defendants objected	n/a

District of New Mexico

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2824	In Re: Gold King Mine Release	William P. Johnson	Judge Alan C. Torgerson	Settlement and all non-dispositive pretrial matters	Consent	\$150 to \$200 per hour

Eastern District of New York

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2331	In Re: Propecia (Finasteride) Products Liability Litigation	Brian M. Cogan	Magistrate Judge Arthur Boylan (ret.)	To determine final awards	Consent	Not disclosed

¹ Since the JPML published the July 16 list of pending MDLs, the parties in this MDL consented to the appointment of a special master (the scope of the appointment was not disclosed).

Southern District of New York

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
1358	In Re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation	Shira A. Scheindlin	Ronald J. Hedges, Esq. ¹	General pre-trial discovery issues	Consent	\$400 per hour
2542	In Re: Keurig Green Mountain Single Serve Coffee Antitrust Litigation	Henry Pitman	Judge Barbara S. Jones (ret.)	Specific discovery issue	Consent	Not disclosed
2543	In Re: General Motors LLC Ignition Switch Litigation	Jesse M. Furman	Daniel J. Balhoff	Settlement	Consent	Not disclosed

Western District of New York

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2903	In Re: Fisher-Price Rock 'n Play Sleeper Marketing, Sales Practices, and Products Liability Litigation	Geoffrey Crawford	Christopher D. Ekman	Settlement	Consent	Not disclosed

Southern District of Ohio

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2433	In Re: E. I. Du Pont de Nemours and Co. C-8 Personal Injury Litigation	Edmund A. Saragus, Jr.	Daniel J. Stack	Settlement	Consent	Not disclosed

Northern District of Ohio

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2197	In Re: DePuy Orthopaedics, Inc., ASR Hip Implant Prods. Liability Litigation	David A. Katz	Hon. Marina Corodemus (ret.)	Settlement	Consent	Not disclosed
			Hon. John K.T rotter (ret.)	Settlement	Consent	Not disclosed
			Catherine A. Yanni	Settlement	Consent	Not disclosed
2804	In Re: Nat'l Prescription Opiate Litigation	Dan A. Polster	David R. Cohen	Non-discovery pre-trial issues	Consent	Not disclosed
			Francis McGovern	Non-discovery pretrial issues	Consent	Not disclosed
			Cathy Yanni	Non-discovery pretrial issues	Consent	Not disclosed

Western District Of Pennsylvania

MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2850	In Re: Railway Industry Employee No-Poach Antitrust Litigation	Joy Flowers Conti	David B. White, Esq.	General pre-trial discovery issues	Consent	Not disclosed

Middle District Of Pennsylvania						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2816	In Re: Sorin 3t Heater-Cooler System	John E Jones, III	Randi Ellis, Esq.	Settlement	Consent	Not disclosed
			Magistrate Judge Susan E. Schwab	General pre-trial discovery issues	No objection	Not disclosed
Eastern District Of Pennsylvania						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
1871	In Re: Avandia Sales Practices and Products Liability Litigation	Cynthia Rufe	Jerome J. Shestack, Esq. assisted by Andrew Chirls, Esq.	General pre-trial discovery issues	No objection	\$450 per hour
			Patrick A. Juneau	Settlement	Consent	\$400 per hour
			Bruce Merenstein, Esq.	General pre-trial discovery issues	No objection	\$525 per hour
2323	In Re: National Football League Players' Concussion Injury Litigation	Anita B. Brody	Perry Golkin	Settlement	Consent	None, just recovery of
			Wendell Pritchett	Settlement	Consent	\$350 per hour
			Joann Verrier	Settlement	Consent	\$350 per hour
			David Hoffman	Settlement	Consent	\$350 per hour
			Susan Lin, Esq.	Investigate fraudulent claims	Consent	Not disclosed
			Judge Lawrence F. Stengel (ret.)	Investigate fraudulent claims	Plaintiffs objected	Not disclosed

2437	In Re: Domestic Drywall Antitrust Litigation	Michael Baylso	Abraham Gafni	Attorney fee issues	Plaintiffs objected	\$500 per hour
2724	In Re: Generic Pharmaceuticals Pricing Antitrust Litigation	Cynthia M. Rufe	David Marion, Esq (with Linda Perkins Esq. as co-counsel)	General pre-trial discovery issues	No objection	\$650 per hour
			Bruce Merenstein, Esq.	General pre-trial discovery issues	No objection	\$650 per hour
			Daniel L. Regard	General pre-trial discovery issues	Consent	\$650 per hour
2002	In Re: Processed Egg Products Antitrust Litigation	Gene Pratter	Sandra Jeskie, Esq.	General pre-trial discovery issues	Consent	\$450 per hour
Northern District Of Texas						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2244	In Re: Depuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation	Ed Kinkeade	James M. Stanton	General pre-trial discovery issues	Consent	\$595 per hour
Southern District of West Virginia						
MDL No.	MDL Name	Appointing Judge	Special Master	Scope Of Appointment	Appointment by Consent of Parties or Without Objection	Compensation
2326	In Re: Boston Scientific Corp Products Liability Litigation	Joseph R. Goodwin	Cathy Yanni	Settlement	Consent	\$300 per case, plus \$10000 per quarter

DMI\11389202.1

Ex. C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: DOMESTIC DRYWALL ANTITRUST LITIGATION	MDL No. 2437 13-MD-2437
THIS DOCUMENT RELATES TO: All Indirect Purchaser Actions	

ORDER APPOINTING SPECIAL MASTER RE: COUNSEL FEES

AND NOW, this 12th day of September, 2018, pursuant to Rule 53, Federal Rule of Civil Procedure, the Court having given the parties notice and an opportunity to be heard on this issue, counsel for the Indirect Purchasers filed a response (ECF 782) indicating that they did not believe the appointment of a Special Master was necessary. Defendants do not object (ECF 779). The Court directs counsel for the Indirect Purchasers to distinguish between their interest as counsel and the interest of the members of the class. The Court ascertains a potential conflict because any reduction in the amount of fees requested by counsel will inure to the benefit of the class. Notwithstanding that counsel are seeking fees equal to 1/3 of the class recovery, this Court nonetheless has a duty under settled Third Circuit precedent, to make an independent review of the merits of counsel's fee petition and in view of the lengthy background of this case and a number of issues referenced in prior opinions of the Court, an independent review by Judge Gafni, who has extensive experience, both as a judge, mediator, arbitrator, law professor, and previously having served as a Master in this Court, will be beneficial. It is therefore **ORDERED** as follows:

1. The Master must proceed with all reasonable diligence.

2. The Master may communicate *ex parte* with the Court or a party or with an agent of a party or a consultant or expert retained by a party.
3. The Master shall keep a record of his activities and time spent of his activities.
4. The Master should report to the Court at least every thirty (30) days as to progress or lack of progress, together with recommendations.
5. The Master will be compensated at the rate \$500 per hour. The Master's fee request will be subject to comments by counsel and reviewed by the Court, and will be deducted from the settlement fund before distribution.
6. The Court cannot promise Judge Gafni will file his Report and Recommendation by October 15, 2018. Whenever the Report and Recommendation by Judge Gafni is filed, the Court will provide a review as promptly as possible. The final hearing will proceed as scheduled on October 25, 2018 as to any objections, opt-out, or other matters, other than counsel fees, if the Report and Recommendation has not yet been filed.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.

O:\13-MD-2437 - drywall\13md2437 IPP Action Order Appointing Special Master.doc

Ex. D

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties, LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

Civ. Action No.: 14-cv-00029-AB

THIS DOCUMENT RELATES TO:
ALL ACTIONS

ORDER APPOINTING SPECIAL INVESTIGATOR

- On November 13, 2017, this Court ordered that “an investigator will be appointed . . . as needed, to look into possible fraudulent claims” (ECF No. 8926).
- By motion dated April 13, 2018, the National Football League and NFL Properties LLC (together, the “NFL Parties”) moved for the appointment of a Special Investigator, pursuant to Federal Rule of Civil Procedure 53, to assist the Court, the Special Masters and the Claims Administrator in investigating the submission of possibly fraudulent claims to the NFL Concussion Settlement Program (ECF No. 9880).
- On July 18, 2018, this Court issued a Notice stating that the Court would defer decision on the NFL Parties’ motion until such time that the Claims Administrator or the Special

Masters alerted the Court that a Special Investigator was necessary to faithfully implement the Settlement Agreement (ECF No. 10144).

- On September 12, 2018, following a request by the Special Masters for the appointment of a Special Investigator, this Court granted the NFL Parties' motion and stated that the Court would appoint a Special Investigator to serve under the direction of the Special Masters (ECF No. 10255).
- After consultation with the Parties and careful evaluation of the matter at hand, the Court appoints the Honorable Lawrence F. Stengel (Ret.) as Special Investigator in *In re National Football League Players' Concussion Injury Litigation* (Case No. 12-md-2323). The Court gave the Parties notice and the opportunity to be heard regarding the appointment of Judge Stengel ("Special Investigator") pursuant to Fed. R. Civ. P. 53(a)(1)(A) and (C). The Parties have consented to the Court's appointment of Judge Stengel.
- Pursuant to Fed. R. Civ. P. 53(b)(3)(A), Judge Stengel has filed an affidavit stating that no grounds exist for disqualification. The affidavit is attached to this Order.
- The appointment of an independent, Court-appointed Special Investigator is appropriate to ensure the integrity of the NFL Concussion Settlement Program for the benefit of the Parties and the public, to ensure the efficient processing of valid claims, and to facilitate the imposition of appropriate sanctions if wrongdoing is found. At the same time, the Court recognizes that appointing a Special Investigator has the potential to chill participation in the claims process by Settlement Class Members, physicians, and attorneys. Taking these considerations into account, the Special Investigator's authority and scope of work is delineated as set forth below.

I. GENERAL AUTHORITY OF THE SPECIAL INVESTIGATOR

- Under Rule 53 and at the direction of the Special Masters, the Special Investigator has the authority to conduct investigations and make recommendations to the Special Masters, in order to assist them in faithfully implementing the Settlement Agreement, and specifically Section 10.3(i) of that Agreement.¹
- The Special Investigator serves under the authority of the Court, at the direction of the Special Masters.
- To carry out investigations at the direction of the Special Masters, the Special Investigator is authorized to exercise the full authority permitted under Rule 53, including, but not limited to, the power to issue subpoenas, compel and take testimony under oath and/or conduct any additional discovery pursuant to Rule 45.
- The Special Investigator must file any reports, recommendations or other materials directly with the Special Masters unless otherwise directed by the Court.

II. AUTHORIZATION TO CONDUCT INVESTIGATIONS

- The Special Investigator's work will focus on the role of attorneys or healthcare professionals involved in the submission of potentially fraudulent claims for which the Qualifying Diagnosis was rendered prior to the Effective Date (hereinafter referred to as "matters within the scope of investigation").
- Investigation into a certain matter will only be authorized at the discretion of the Special Masters.

¹ This provision gives the Special Masters the authority to review and investigate potentially fraudulent claims, and to recommend appropriate remedies and sanctions.

- **Authorization to Investigate Matters Within the Scope of Investigation:** The Special Masters may authorize the Special Investigator to investigate matters within the scope of investigation either by the Special Masters' own initiative or upon consideration of any request of Co-Lead Class Counsel, Counsel for the NFL Parties, and/or the Claims Administrator.
- **Authorization to Investigate Matters Outside the Scope of Investigation:** Under certain circumstances, where the integrity of the Settlement Agreement may be impugned, the Special Masters may authorize the Special Investigator to investigate matters outside the scope of investigation.
 - The Special Masters may authorize the Special Investigator to investigate claims in which the Qualifying Diagnosis was rendered by a current Qualified MAF Physician and/or BAP Provider upon a request and initial showing by Co-Lead Class Counsel, Counsel for the NFL Parties, and/or the Claims Administrator that the Physician or Provider made an intentional misrepresentation, omission, or concealment.
 - The Special Masters may authorize the Special Investigator to investigate an individual Settlement Class Member for actions impugning the integrity of the Settlement Agreement (e.g., recruiting others to engage in fraud; submitting a fraudulent claim) upon a request and a good cause showing by Co-Lead Class Counsel, Counsel for the NFL Parties, and/or the Claims Administrator.
- **Review of the Special Masters' Authorizations of Investigations:** If Co-Lead Class Counsel or Counsel for the NFL Parties objects to the Special Masters' decision on whether to authorize an investigation of a certain matter, the party may request that the

Special Masters convene an informal conversation with the Court to resolve the objection.

III. COMMUNICATIONS WITH PARTIES AND THE COURT

- The Special Investigator will perform his duties independent of the Parties and will report directly to, and take direction from, the Special Masters and the Court.
- The Special Investigator must provide a confidential status update to the Special Masters at least monthly, and to the Court on at least a quarterly basis.
- The Special Investigator is authorized to work in consultation with the Claims Administrator and accordingly is authorized to communicate ex parte with the Claims Administrator.
- If the Special Investigator deems ex parte communication with any of the Parties to be necessary in the investigation of a given matter, he will consult with the Special Masters before engaging in such communication.

IV. SPECIAL INVESTIGATOR FEES

- Pursuant to Fed. R. Civ. P. 53(a)(3), the Court has considered the fairness of imposing the expenses associated with the Special Investigator on the Parties, and has taken steps to ensure that there will not be unreasonable expense or delay associated with this procedure.
- Pursuant to Fed. R. Civ. P. 53(g), the Special Investigator's compensation will be a fixed hourly rate to be approved by the Court, after consultation with Counsel for the NFL Parties and Co-Lead Class Counsel, in addition to reasonable out-of-pocket costs and expenses incurred as a result of the performance of his responsibilities.

- The Court may alter the basis and terms of compensation with the consent of Counsel for the NFL Parties and Co-Lead Class Counsel.
- The Special Investigator must submit actual fees (based on the Court-approved hourly rate) and expenses incurred to the Court, Special Masters, Counsel for the NFL Parties and Co-Lead Class Counsel on a monthly basis, and must describe with reasonable specificity the work performed.
- Upon approval by the Special Masters, these fees and expenses shall be paid out of the Monetary Award Fund.²

V. SUPPORTING INVESTIGATORS

- The Special Investigator may retain an investigative firm and/or other staffing (“Supporting Investigators”) to provide investigative support, after consultation with the Special Masters and Counsel for the NFL Parties and Co-Lead Class Counsel.
- The Court must be informed of the entities and individuals serving under the auspices of this order.
- The Special Investigator may negotiate appropriate and reasonable fees for Supporting Investigators, subject to the approval of the Special Masters after consultation with Counsel for the NFL Parties and Co-Lead Class Counsel. All such fees and reasonable out-of-pocket costs and expenses shall be paid out of the Monetary Award Fund.

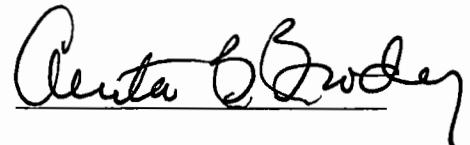
VI. OTHER TERMS

- The term of the Special Investigator is one year from the date of this Order, subject to appropriate extensions of the term by the Court.

² The Special Investigator’s compensation will not affect the amount of funds available to compensate Settlement Class Members because the Monetary Award Fund is uncapped.

- The Special Investigator and any Supporting Investigators have immunity in the performance of work conducted pursuant to this Order, except with respect to any willful misconduct. No person or entity has the right to institute any action against the Special Investigator or any Supporting Investigators for any matter covered by this immunity, except with respect to willful misconduct.
- This Court retains continuing and exclusive jurisdiction over the interpretation, implementation, and enforcement of this Order.

And now, this 16th day of December, 2018, pursuant to Federal Rule of Civil Procedure 53 and in accordance with the Order of September 12, 2018 granting the request for appointment of a Special Investigator in this matter, **IT IS ORDERED** that the Honorable Lawrence Stengel (Ret.), former Chief Judge for the United States District Court for the Eastern District of Pennsylvania, is appointed Special Investigator, according to the terms outlined above.



ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to:

Copies **MAILED** on _____ to:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Kevin Turner and Shawn Wooden,
*on behalf of themselves and
others similarly situated,*

Plaintiffs,

v.

National Football League and
NFL Properties LLC,
successor-in-interest to
NFL Properties, Inc.,

Defendants.

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**RESPONSE TO NFL PARTIES' MOTION SEEKING APPOINTMENT
OF SPECIAL INVESTIGATOR**

Class Counsel, Podhurst Orseck, P.A., hereby responds to the NFL Parties' motion seeking the appointment of a Special Investigator. (ECF No. 9880.) We are submitting this response because Co-Lead Class Counsel, Seeger Weiss, has only objected to certain aspects of the NFL's request. (ECF No. 9917.) We believe it incumbent upon us to share with the Court another perspective on this issue. In our view, however well motivated the NFL Parties' proposal may be, we are concerned that the appointment of a roving investigator with broad police powers would be

an overreaction which risks intimidating class members, chilling doctors' participation in the settlement program, and delaying the processing of legitimate applications for benefits.

Of course, there should be no tolerance for fraud, but the settlement already has established procedures to guard against it. And there is no indication that existing safeguards are not working. The Claims Administrator recently reported on the "system-wide processes to detect and prevent fraud" that it has implemented. (ECF No. 9882-1 at 31.) Nowhere in that comprehensive submission, or in its related filing (ECF No. 9870 at 8-16), does the Claims Administrator suggest that it believes the audit processes and additional anti-fraud measures are inadequate, or require the assistance of a Special Investigator. Although the NFL notes that "[t]he Claims Administrator has advised that it has no objection to the appointment of a Special Investigator" (ECF No. 9880-1 at 16 n.1), that is not the same thing as the Claims Administrator advocating for such assistance.

Nor have the Special Masters appointed by this Court publicly advocated for the appointment of a Special Investigator that, under the NFL's request, would serve as a separate special master under Fed. R. Civ. P. 53. The absence of such a request for assistance from the Special Masters is particularly significant, considering they already have the authority to investigate fraud in connection with the settlement. Rule 22 of the Rules Governing the Audit of Claims specifically provides that "the Special Master may at any time direct any Party to the Audit Proceeding, the Claims Administrator and any other person or entity whose participation or response is deemed necessary to submit additional memoranda or material." And the settlement itself authorizes the Special Masters to investigate whether any misrepresentation, omission, or concealment of material fact in connection with a claim resulted from intentional misconduct. *See Settlement Agreement, § 10.3(i).*

As the Claims Administrator and Special Masters already have the investigative power that the NFL seeks to vest in a separate Rule 53-conferred authority, the NFL is effectively arguing that the Claims Administrator and Special Masters are not up to the task. Yet the NFL has not presented any evidence that the Claims Administrator and Special Masters lack the resources or willingness to utilize their authority to investigate fraud in the settlement. Instead, the NFL has identified a few cases of suspected fraud from more than 2,000 claims submitted. That evidence does not justify making such a radical change to the administrative structure of the settlement, particularly at this relatively early stage in its 65-year lifespan. Before burdening the settlement with another bottleneck, and class members, doctors and attorneys with unjustified and potentially cumbersome investigations, the NFL must be required to demonstrate that the audit process and Special Masters are incapable of rooting out fraud in the settlement. The NFL has not come close to making such a showing. Instead, the NFL has jumped the gun with an entirely one-sided and unbounded request that will almost certainly result in additional delays and unduly discourage class members and physicians from participating in the settlement.

For the foregoing reasons, the NFL's motion should be denied.

DATED: April 27, 2018

Respectfully submitted,

PODHURST ORSECK, P.A.
SunTrust International Center
One S.E. 3rd Ave, Suite 2300
Miami, FL 33131
Telephone: (305) 358-2800
Fax: (305) 358-2382

By: /s/ Steven C. Marks
STEVEN C. MARKS
Fla. Bar. No. 516414
Email: smarks@podhurst.com
STEPHEN F. ROSENTHAL
Fla. Bar No. 0131458
Email: srosenthal@podhurst.com
RICARDO M. MARTÍNEZ-CID
Fla. Bar No. 383988
Email: rmcid@podhurst.com
MATTHEW P. WEINSHALL
Fla. Bar No. 84783
Email: mweinshall@podhurst.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2018, I caused the foregoing document to be filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will provide electronic notice to all counsel and parties.

/s/ Steven C. Marks
Steven C. Marks, Esq.

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:12-md-02323-AB**

MDL-2323 IN RE: NATIONAL FOOTBALL LEAGUE

Date Filed: 01/31/2012

PLAYERS' CONCUSSION INJURY LITIGATION

Jury Demand: None

Assigned to: HONORABLE ANITA B. BRODY

Nature of Suit: 360 P.I.: Other

Case in other court: USCA FOR THE THIRD CIRCUIT, 14-03520

Jurisdiction: Diversity

USCA FOR THE THIRD CIRCUIT, 14-03693

USCA FOR THE THIRD CIRCUIT, 15-02206

USCA FOR THE THIRD CIRCUIT, 15-02217

USCA FOR THE THIRD CIRCUIT, 15-02230

USCA FOR THE THIRD CIRCUIT, 15-02234

USCA FOR THE THIRD CIRCUIT, 15-02272

USCA FOR THE THIRD CIRCUIT, 15-02273

USCA FOR THE THIRD CIRCUIT, 15-02290

USCA FOR THE THIRD CIRCUIT, 15-02291

USCA FOR THE THIRD CIRCUIT, 15-02292

USCA FOR THE THIRD CIRCUIT, 15-02294

USCA FOR THE THIRD CIRCUIT, 15-02304

USCA FOR THE THIRD CIRCUIT, 15-02305

USCA FOR THE THIRD CIRCUIT, 18-01040

USCA FOR THE THIRD CIRCUIT, 18-01482

USCA FOR THE THIRD CIRCUIT, 18-01639

USCA, 18-02012

USCA FOR THE THIRD CIRCUIT, 18-02184

USCA FOR THE THIRD CIRCUIT, 18-02225

USCA FOR THE THIRD CIRCUIT, 18-02249

USCA, 18-02253

USCA, 18-02332

USCA, 18-02416

USCA, 18-02417

USCA, 18-02418

USCA, 18-02419

USCA, 18-02422

USCA, 18-02582

USCA FOR THE THIRD CIRCUIT, 18-02650

USCA FOR THE THIRD CIRCUIT, 18-02651

USCA FOR THE THIRD CIRCUIT, 18-02661

USCA, 18-02684

USCA, 18-02724

USCA, 19-01385

USCA, 19-01760

USCA, 19-01771

USCA, 19-02085

USCA, 19-02753

Document 625-3 Filed 11/11/20 PageID: 14708

Cause: 28:1332 Diversity-Personal Injury

IN RE:**IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION**

represented by **DAVID D. LANGFITT**
LANGFITT GARNER PLLC
2001 MARKET ST SUITE 3900
TWO COMMERCE SQUARE
PHILADELPHIA, PA 19103
215-772-2660
Email: david@langfittgarner.com
ATTORNEY TO BE NOTICED

JAMES R. DUGAN , II
THE DUGAN LAW FIRM
365 CANAL ST STE 1000
NEW ORLEANS, LA 70130
504-648-0180
Email: jdugan@dugan-lawfirm.com
ATTORNEY TO BE NOTICED

Special Master**PERRY GOLKIN**

represented by **PERRY GOLKIN**
500 PARK AVE 4TH FL
NEW YORK, NY 10022
646-205-1220
Email: pgolkin@ppcenterprises.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Special Master**WENDELL E. PRITCHETT**

represented by **WENDELL E. PRITCHETT**
UNIVERSITY OF PENNSYLVANIA LAW
SCHOOL
1901 WALNUT STREET
APT. 16C
PHILADELPHIA, PA 19103
215-760-7538
Email: pritchet@law.upenn.edu
LEAD ATTORNEY

Special Master**JO-ANN M. VERRIER**

represented by **JO-ANN M. VERRIER**
UNIVERSITY OF PENNSYLVANIA LAW
SCHOOL
3501 SANSOM STREET
PHILADELPHIA, PA 19104
215-898-6746
Email: jverrier@law.upenn.edu
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Special Master

**SPECIAL INVESTIGATOR
LAWRENCE F. STENGEL**

Special Master

SUSAN M. LIN

represented by **SUSAN M. LIN**
KAIRYS RUDOFSKY MESSING
FEINBERG & LIN LLP
THE CAST IRON BUILDING
718 ARCH ST SUITE 501 SOUTH
PHILADELPHIA, PA 19106
215-925-4400
Fax: 215-915-5365
Email: slin@krlawphila.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Special Master

DAVID HOFFMAN

represented by **DAVID HOFFMAN**
UNIVERSITY OF PENNSYLVANIA
CAREY LAW SCHOOL
3501 SANSOM ST.
PHILADELPHIA, PA 19104
215.898.9170
Email: dhoffman@law.upenn.edu
PRO SE

Administrator

CLAIMS ADMINISTRATOR

represented by **ORRAN L. BROWN**
BROWNGREER PLC
250 Rocketts Way
RICHMOND, VA 23231
804-521-7201
Fax: 804-521-7299
Email: obrown@browngreer.com
ATTORNEY TO BE NOTICED

Plaintiff

**TIM HOWARD HOWARD AND
ASSOCIATES ATTORNEYS AT LAW,
P.A.**

represented by **PHILLIP TIMOTHY HOWARD**
HOWARD & ASSOCIATES
1415 EAST PIEDMONT DRIVE
SUITE 5
TALLAHASSEE, FL 32308
850-298-4455
Email: tim@howardjustice.com
ATTORNEY TO BE NOTICED

Plaintiff

EDDIE ANDERSON

represented by **JAMES R. DUGAN , II**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Acosta and Associates LLC

represented by **MICHAEL J. ACOSTA**

Ex. E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: CATHODE RAY TUBE (CRT)) MDL No. 1917
ANTITRUST LITIGATION)
) Case No. C-07-5944-SC
)
This Order Relates To:) ORDER APPOINTING SPECIAL
) MASTER
)
ALL ACTIONS)
)

The Court has suggested the appointment of U.S. Magistrate Judge (Ret.) James Larson as an additional Special Master for this case. See Fed. R. Civ. P. 53(a)(1)(C), 53(b)(1). The Court gave the parties an opportunity to be heard at a status conference on August 7, 2015, and again permitted parties to submit objections via an order to show cause. See Order of the Court dated August 17, 2015, ECF No. 3986 ("Show Cause Order"). Certain parties objected. See ECF No. 4021. Accordingly, the Court ordered a second hearing to ensure parties had a full, fair opportunity to be fully heard on the matter, and broke with its normal tradition of not issuing any intended ruling to ensure parties could respond meaningfully to the Court's thoughts. See Order of the Court dated August 31, 2015, ECF No. 4029 ("Hearing Order"). Pursuant to the Hearing Order, a hearing was held on September 11, 2015.

1 Nothing during the hearing substantially changed the opinion
2 of the Court. Therefore, the Court ADOPTS the reasoning set forth
3 in its Hearing Order, finds that 28 U.S.C. §§ 455, 458 do not bar
4 this appointment, and OVERRULES any objections to Judge Larson.

5 The Court further finds that considerations of fairness, the
6 prevention of undue delay, and the amount of judicial resources
7 required to adjudicate the designated pretrial matters (including
8 at least 86-91 complex pending motions which must all be decided
9 within four months) constitute "exceptional circumstances" which
10 justify a Special Master. See Nat'l Ass'n of Radiation Survivors
11 v. Turnage, 115 F.R.D. 543, 560 (N.D. Cal. 1987).

12 In reaching this decision, the Court is cognizant of the
13 admonition in La Buy v. Howes Leather Co., 352 U.S. 249, 258-59
14 (1957). There, the Supreme Court admonished a District Court for
15 appointing a Special Master on the eve of trial to assist in an
16 antitrust case after years of litigation and where the Court had
17 already itself decided most pretrial motions. "The master, a
18 member of the bar, was to hear and decide the entire case, subject
19 to review by the District Judge under the 'clearly erroneous'
20 test." Mathews v. Weber, 423 U.S. 261, 274 (1976) (distinguishing
21 La Buy without eroding it). Here, conversely, the Court expressly
22 retains control of the trial, reviews all matters by the Special
23 Master de novo (as set forth in greater detail below), and in
24 addition to simple congestion cites the need to complete an
25 incredible volume of highly complex motion work to ensure a trial
26 schedule that will be fair and equitable to all involved parties.
27 Moreover, the Special Master is not an inexperienced attorney or
28 random member of the bar chosen by the parties to increase their

1 own likelihood of success. Rather, he is a retired U.S. Magistrate
2 Judge chosen by the Court, with a history of being a third party
3 neutral and making these very types of judicial recommendations.
4 See United States v. State of Wash., 157 F.3d 630, 660 (9th Cir.
5 1998) (Beezer, J., concurring) (discussing the need for complexity
6 of the circumstances and neutrality of the Special Master). Thus,
7 this appointment "aid[s] [this] judge[] in the performance of
8 specific judicial duties, as they may arise in the progress of a
9 cause," La Buy, 352 U.S. 249, 256, and is substantially similar to
10 appointing a Magistrate Judge, in accordance with Mathews, 423 U.S.
11 at 274-75. Accordingly, appointment of a Special Master is proper.

12 WHEREFORE, IT IS HEREBY ORDERED that, pursuant to Federal Rule
13 of Civil Procedure 53, U.S. Magistrate Judge (Ret.) James Larson is
14 appointed as Special Master to supervise and preside over the
15 "designated pretrial matters" in this case, as defined herein.

16 The Special Master has filed a declaration under 28 U.S.C. §
17 455 stating that there is no ground for disqualification.

18 1. Scope of Duties

19 The Special Master shall adjudicate all designated pretrial
20 matters. This specifically excludes discovery disputes in this
21 case, and also excludes disputes arising during the course of
22 depositions. Such disputes have been previously assigned to Judge
23 Walker (Ret.), whose appointment as a Special Master remains
24 undisturbed by this separate appointment of a second, distinct
25 Special Master. Rather, designated pretrial matters shall include
26 24-29 motions for summary judgment presently pending, 40 motions in
27 limine presently pending, and (to the degree the Special Master can
28 resolve or limit the issues connected to such motions) 4 Daubert

1 motions presently pending. Designated pretrial matters also
2 includes motions for cases that will be remanded to a different
3 jurisdiction of origin which Judge Larson believes can be decided
4 applying Ninth Circuit law without any significant risk of
5 conflicting circuit law resulting in appellate issues. The Court
6 is presently cognizant of 18 such motions in cases subject to
7 remand that parties have previously agreed can be decided under the
8 law of the Ninth Circuit without causing any potential difficulties
9 resulting from differing circuit laws at such time as the case is
10 remanded to its judicial district of origin for trial. See ECF No.
11 3952-1. Finally, designated pretrial matters may, at the
12 discretion of the Special Master or the Court, include any motion
13 filed on or after August 7, 2015, which is deemed of a similar ilk
14 to the other designated pretrial matters such that review by the
15 Special Master is appropriate.

16 This Order shall apply to all cases currently pending in MDL
17 No. 1917 and to all related actions that have been or will be
18 originally filed in, transferred to, or removed to this Court and
19 assigned thereto (collectively, "the MDL proceedings"). This Order
20 is binding on all parties and their counsel in all cases currently
21 pending or subsequently made part of these proceedings and shall
22 govern each case in the proceedings unless it explicitly states
23 that it relates to specific cases.

24 **2. Scope of Authority**

25 The Special Master shall have most of the authority (subject
26 only to the limits set forth herein) provided in Federal Rule of
27 Civil Procedure 53(c), including, but not limited to: the authority
28 to set the date, time, and place for all hearings determined by the

1 Special Master to be necessary; to direct the issuance of
2 subpoenas; to make rulings on objections or otherwise resolve
3 disputes arising during the course of hearings held before him; to
4 preside over hearings (whether telephonic or in-person); to take
5 evidence in connection with the designated pretrial matters; to
6 award fee allocations and non-contempt sanctions provided by
7 Federal Rules of Civil Procedure 37 and 45 insofar as such rules
8 are deemed to apply to the designated pretrial matters; and to
9 recommend contempt sanctions. The Special Master may determine
10 disputes arising from failing to abide by sanctions set forth by
11 the Special Master. The Court's initial review of designated
12 pretrial matters suggests many of them may be appropriate for
13 resolution without oral argument per Civil Local Rule 7-1(b). The
14 Special Master is therefore delegated authority to determine
15 whether holding oral argument is required for any given matter or
16 whether the Special Master can draft a Report and Recommendation
17 ("R&R") based solely upon the briefs and evidence as submitted.

18 **3. Procedures for Briefing Submitted to Special Master**

19 The Special Master may consider disputes presented orally,
20 presented in person or by telephone, in a letter brief, or in
21 formal motions, so long as the dispute is within the scope of his
22 duties. If additional briefing is deemed required, briefing
23 schedules will be determined by the Special Master. However, the
24 Special Master may not disclose his resolution of such disputes,
25 except as set forth below.

26 **4. Preservation of Record**

27 Pursuant to Federal Rule of Civil Procedure 53(b)(2)(c), the
28 Special Master shall maintain files consisting of all documents

1 submitted by the parties and any written orders, findings, and/or
2 R&Rs. Any order issued by the Special Master shall be emailed to
3 the parties. Such emailing shall fulfill the Special Master's duty
4 to serve the order on the parties. However, as orders must also be
5 filed with the clerk and thus captured in the Electronic Court
6 Filing ("ECF") system, orders shall not contain any resolution or
7 proposed resolution of any dispute, nor shall they in any way
8 indicate how any dispute may be resolved pursuant. Such
9 information shall be captured strictly in R&Rs.

10 All of the Special Master's R&Rs are to be provided directly
11 and only to Chambers for in camera review, and the Special Master
12 is not to share R&Rs with parties or otherwise allow their contents
13 to be made known to any party. See Fed. R. Civ. P. 53(e). Once
14 the Court has determined that settlements are finalized to a
15 sufficient degree and the proper time has arrived to act on the
16 R&Rs, the Court will publish through ECF the collected R&Rs to the
17 parties for review, opportunity to be heard, and objections. See
18 Fed. R. Civ. P. 53(f)(1)-(2). Nothing in this Order does or should
19 be construed to grant the Special Master permission to make known
20 any decision or through any means indicate the substance thereof to
21 any party without express, case-by-case, pre-approval by the Court.

22 Any records of the Special Master's activities other than
23 written orders, findings, and/or recommendations shall be filed in
24 accordance with paragraph 5(a) and 5(b) of this Order.

25 **5. Action on Orders, Reports, or Recommendations**

26 Pursuant to Federal Rule of Civil Procedure 53(b)(2)(D) and
27 subject to the restrictions set forth above, the procedures

28 ///

1 described in paragraphs 5(a) and 5(b) herein shall govern any
2 action on the Special Master's orders and R&Rs.

3 **a. Time Limits and Standard for Review**

4 Any party wishing to file objections to the Special Master's
5 orders, reports and/or recommendations must file such objection
6 with the Court within 10 days from the day the Special Master's
7 order, report and/or recommendation is filed. Any opposition
8 thereto must be received within seven (7) days thereafter, and any
9 reply must be received within four (4) days of the opposition.
10 This expedited schedule will ensure the Court is able to keep any
11 trial date set. Review of the Special Master's orders will be
12 subject to the same procedures for orders by a Magistrate Judge and
13 will be reviewed de novo for all matters, including procedural
14 matters, unless the parties stipulate otherwise and the Court
15 approves the stipulation. See Civil L.R. 72-2; see also Fed. R.
16 Civ. P. 53(f)(2)-(5); Show Cause Order.

17 **b. Filing the Record for Review**

18 The party filing the objection shall submit with such
19 objection any record necessary for the Court to review the Special
20 Master's order or R&R, including any transcripts of proceedings
21 before the Special Master and any documents submitted by the
22 parties in connection with the Special Master's order, report,
23 and/or recommendation. Failure to provide the record shall
24 constitute grounds for the Court to overrule the objection or deny
25 the motion. However, insofar as the information has already been
26 filed with the Court via ECF prior to the appointment of the
27 Special Master or else is an R&R of the Special Master as published
28 by the Court, the party may simply file any new materials presented

1 to the Special Master and include within their objection the ECF
2 number of the earlier filed information and related declarations,
3 responses, replies, and R&R(s), identified by ECF number.

4 **6. Ex Parte Communications**

5 To facilitate the fulfillment of his duties under this Order,
6 the Special Master may (and for R&Rs must always) communicate ex
7 parte to the Court to the extent that he deems necessary and
8 appropriate. In addition, the Special Master may communicate ex
9 parte with a party, but only for the limited purposes of
10 administrative matters such as scheduling hearings, telephone calls
11 or briefing, if such arrangements cannot be made in a timely manner
12 by contacting the Special Master's administrative assistant.

13 **7. Compensation**

14 The Special Master's hourly fee shall be \$600.00, and that of
15 any law clerk he should employ shall be \$200.00. The Special
16 Master shall, in his discretion, allocate and assess the payment of
17 his fees among the parties, including allocation of all of his fees
18 to one party should he determine that the party has acted in bad
19 faith. The parties shall pay the Special Master's fees within ten
20 (10) calendar days of assessment, unless otherwise excused by the
21 Special Master or the Court.

22 **8. Diligence**

23 Pursuant to Federal Rule of Civil Procedure 53(b)(2), the
24 Court hereby directs the Special Master to proceed with all
25 reasonable diligence in performing these duties.

26 **9. Notification to the Special Master of Mooted Motions**

27 In accordance with the Show Cause Order, parties shall notify
28 the Special Master of any settlements reached and associated

1 motions thereby mooted otherwise pending before the Special Master
2 within one (1) business day of reaching a settlement. Notice shall
3 be given in whatever manner deemed convenient by the Special
4 Master, and shall be separate from any notice to or approvals
5 otherwise required by the Court (whose procedures remain
6 unchanged).

7 Within seven (7) days of this order or according to such
8 schedule as the Special Master may otherwise publish, all parties
9 with pending designated pretrial matters shall contact the Special
10 Master to discuss the execution of his duties in connection with
11 this order.

12
13 IT IS SO ORDERED.

14
15 Dated: September 11, 2015



16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28

Hon. James Larson (Ret.)
JAMS
Two Embarcadero Center, Suite 1500
San Francisco, CA94111
Telephone (415) 982-5267
Facsimile (415) 982-5287

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: CRT ANTITRUST LITIGATION

MDL No. 1917

THIS ORDER RELATES TO:

Case No. 3:07-cv-5944 SC

ALL CASES

**AFFIDAVIT OF JAMES LARSON
REGARDING PROPOSED
APPOINTMENT AS SPECIAL MASTER
FOR PENDING MOTIONS**

I, JAMES LARSON, declare under penalty of perjury:

1. I am a retired magistrate judge of the United States District Court for the Northern District of California. I am a member in good standing of the State Bar of California and am admitted to practice before this Court. I have personal knowledge of the following facts, and if called as a witness, could and would testify competently as follows.

2. I have been proposed as a special master in the above-captioned matter to adjudicate and prepare report and recommendations regarding all appropriate pending motions required for trial.

3. I am competent and willing to serve in the capacity of special master as described above.

4. I have familiarized myself with the issues and parties in the above-captioned case.

5. I attest and affirm that I know of no grounds for disqualification under 28 U.S.C.
455 that would prevent me from serving as a special master in the above-captioned

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on August 31, 2015, in San Francisco, California.

James Larson / k
Hon. James Larson (Ret.)

Ex. F

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE LIQUID ALUMINUM SULFATE
ANTITRUST LITIGATION**

Civil Action No. 16-MD-2687 (JLL) (JAD)

ORDER

This matter comes before the Court by reference from the Honorable Joseph A. Dickson, U.S.M.J. regarding appointment of special discovery master in this multi-district litigation. Pursuant to Federal Rule of Civil Procedure 78, the Court did not hear oral argument on this issue; and

WHEREAS, by Order dated February 4, 2016, (ECF No. 1), the United States Judicial Panel on Multidistrict Litigation created Multidistrict Litigation No. 2687, which was originally comprised of cases pending in the District of New Jersey, the District of Minnesota, and the Eastern District of Pennsylvania. (Id.). The Panel transferred the Minnesota and Pennsylvania cases to this District and assigned them to the undersigned “for coordinated or consolidated pretrial proceedings” along with the New Jersey-based matters. (Id.). The docket for this matter reflects that this litigation now consists of 70 member cases; and

WHEREAS from the outset, the Court has sought to manage this litigation both closely and efficiently. Shortly after the Panel entered its Order, this Court entered a comprehensive initial Order scheduling an initial conference and addressing multiple organizational issues and other preliminary matters. (ECF No. 2). Since that time, both the undersigned and Magistrate Judge Dickson have, in consultation with the parties, entered a variety of case management orders

intended to keep this complex litigation moving in an efficient and orderly fashion. (See, e.g., ECF Nos. 72, 139, 157, 209, 211, 328, 355, 387, 395, 396); and

WHEREAS the parties have aggressively litigated various issues from the earliest stages of this matter, and continue to do so to date. By the Court's count, the parties have made more than 50 individual filings regarding contested discovery and/or case management issues since August 1, 2017. (See ECF Nos. 421, 424, 425, 428, 431, 436, 454, 466, 467, 478, 484, 519, 529, 531, 545, 546, 547, 548, 549, 550, 553, 554, 557, 558, 560, 561, 564, 565, 570, 571, 580, 581, 586, 588, 589, 591, 593, 594, 598, 599, 601, 632, 641, 643, 645, 649, 650, 655, 656, 659, 660, 692, 706, 708).¹ Indeed, the parties have filed 13 of those submissions since Magistrate Judge Dickson conducted a multi-hour discovery conference on January 19, 2018; (see ECF Nos. 632, 641, 643, 645, 649, 650, 655, 656, 659, 660, 692, 706, 708); and

WHEREAS Federal Rule of Civil Procedure 53(a)(1)(C) provides, in pertinent part, that the District Court may appoint a special master to "address pretrial and posttrial matters that cannot be effectively and timely addressed by an available district judge or magistrate judge of the district."; and

WHEREAS, "[a]lthough it is clear that the appointment of a special master must be limited in scope and is not justified simply because of docket congestion or the complexity of factual

¹ This does not include the parties' 6 filings regarding the propriety of appointing a special master in this litigation. (ECF Nos. 605, 616, 617, 618, 619 and 627). The Direct Purchaser Plaintiffs request that the Court appoint a special master. (ECF Nos. 605, 627). Defendants oppose such an appointment, arguing that the Court has timely resolved the parties' disputes to date, and that the appointment of a special master would result in unnecessary delay and expense. (ECF No. 616). The Indirect Purchaser Plaintiffs take no position on the special master issue, other than to request that the Court resolve two specific discovery issues itself, and implement a fair cost allocation mechanism so that "the costs of any discovery disputes referred to the Special Master are not imposed on parties who have no (or at best tangential) involvement in those disputes." (ECF No. 617 at 1). The State of Florida, the City of Baltimore, the City of Richmond, and the Washington Suburban Sanitary Commission take no position on the special master issue. (ECF Nos. 618-19).

and/or legal issues . . . utilization of a master is appropriate to ‘perform some other time consuming or detailed tasks that the district court judge or a magistrate judge would be less efficient in accomplishing.’” Luppino v. Mercedes Benz USA, LLC, No. 09-05582 (DMC), 2013 WL 5025229, at *3 (D.N.J. Sept. 11, 2013) (quoting Agostino v. Quest Diagnostics, Inc., No. 04-4362, 2012 WL 2344865, at *1 (D.N.J. June 20, 2012)); and

WHEREAS “courts in this Circuit have appointed special masters to oversee and facilitate complicated and contentious discovery.” Id. (citing Grider v. Keystone Health Plan Cent., Inc., No. 2:01-cv-05641 (JKG) (E.D. Pa. Aug. 25, 2005, ECF No. 373) (“Furthermore, it is the court’s belief that the appointment of a discovery master, who will be in a position to promptly and informally consider the views of the parties . . . and attempt to mediate them, will be an invaluable aid to the overall case management of this matter.”)). Indeed, this Court previously determined that the appointment of a special discovery master was appropriate in a matter involving “very voluminous and complex issues of discovery.” Williams v. BASF Catalysts, LLC, No. 11-1754 (JLL), 2017 WL 4220282, at *1 (D.N.J. Sept. 21, 2017); and

WHEREAS, since commencing discovery in this matter, the parties have submitted new discovery and case management disputes for the Court’s consideration on a consistent basis. By the Court’s conservative estimate, since August 1, 2017, the parties have raised more than a dozen discrete disputes, which have spanned more than 200 pages of single-spaced letter briefing. The parties have also asked that Magistrate Judge Dickson conduct regular discovery conferences approximately every six weeks, clearly suggesting that they foresee new disputes arising regularly for the foreseeable future. To be clear, the Court is not suggesting that either the number of disputes at issue or the need for such intensive case management is inappropriate in a case of this size and complexity. Indeed, the Court has devoted substantial resources to ensure that it has been

able to address the parties' disputes as quickly as possible, while still giving them careful consideration. That level of case management, however, is simply not sustainable given the docket congestion in the District of New Jersey and the press of other matters on the Court's docket. The District currently has three vacant judgeships, two of which the Judicial Conference considers to be "judicial emergencies." The District will have a fourth vacancy in June 2018 and a fifth in November 2018. In addition to those vacancies, the Judicial Conference has indicated that the District is in need of three new judgeships; and

WHEREAS the Court finds that, given the history of this matter, and, in particular, considering the breadth and frequency of the parties' discovery disputes, as well as the likelihood that new disputes will arise with regularity for the duration of the discovery period, it is both necessary to appoint a special master in this multidistrict litigation and appropriate to do so pursuant to Federal Rule of Civil Procedure 53(a)(1)(C);

IT IS on this 12th day of March, 2018,

ORDERED that the Honorable Dennis M. Cavanaugh (Ret.) is hereby appointed as special master pursuant to Fed. R. Civ. P. 53(a); and

I. SCOPE OF THE SPECIAL MASTER'S AUTHORITY

IT IS FURTHER ORDERED that the special master shall oversee the schedule for completion of discovery and all discovery disputes and motions related thereto pursuant to procedures for practice that the special master may establish and modify as necessary. The authority of the special master hereunder shall be coextensive with those of a Magistrate Judge in the District of New Jersey pursuant to Local Civil Rule 72.1, and as such, any appeal of an action or decision made by the special master shall be filed with the Court pursuant to Local Civil Rule 72.1(c)(1); and

IT IS FURTHER ORDERED that, among other things, the special master shall address all of the issues set forth in the parties' various submissions, listed above, that remain unresolved following the conference scheduled for March 15, 2018. The special master shall also address new discovery issues that arise following the March 15, 2018 conference. On or before **March 30, 2018**, the parties shall provide the special master with a joint letter that provides a current inventory of all such open disputes, with citations to the relevant docket entries embodying those disputes; and

II. COST OF SPECIAL MASTER

IT IS FURTHER ORDERED that for all matters requiring his attention, the special master shall determine each parties' costs, which shall be proportional, in the special master's good faith estimation, to the services rendered with respect to each party. However, absent a determination of good cause by the special master based upon an appropriate record, in general: the parties to any discrete dispute shall equally bear the costs relative to the special master's resolution of that dispute; and for case-wide or administrative matters, all parties shall bear the special master's costs on a pro rata basis; and

IT IS FURTHER ORDERED that the Special Master shall receive an hourly rate of \$650.00, and shall be reimbursed for any reasonable out-of-pocket expenses; and

IT IS FURTHER ORDERED that for the special master to fulfill his responsibilities hereunder most efficiently and at the least cost to the parties, he may employ as assistant(s) lawyers at the special master's law firm, selected by the special master, under the supervision and control of the special master, and utilized at the special master's sole discretion, and such lawyers shall receive an hourly rate of \$325.00; and

IT IS FURTHER ORDERED that the special master and his assistant lawyer(s) shall submit invoices to each party on a monthly basis; and

III. PROCEDURES

IT IS FURTHER ORDERED that the submissions related to any discovery application directed to the special master shall be submitted to the special master via email in electronic format (with one courtesy hardcopy sent to the special master), and shall also be electronically filed via CM/ECF. All motion papers shall comply with applicable Federal Rules of Civil Procedure and Local Rules of this District, unless otherwise ordered by the special master; provided, however, that nothing herein shall preclude the special master from adopting or utilizing informal procedures to resolve disputes including, but not limited to: conducting in person or telephone conferences; requiring that the parties meet and confer; and directing the parties to submit and/or exchange letters in lieu of briefs; and

IT IS FURTHER ORDERED that the special master may consult with the Court, including, but not limited to, the Magistrate Judge, and if necessary, shall submit any reports and recommendations, including matters resolved by consent, to the Court for entry as an Order on the docket; and

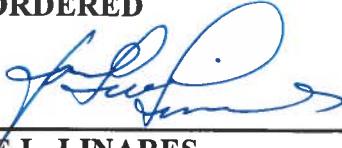
IT IS FURTHER ORDERED that the confidentiality of any materials or arguments presented to the special master will be treated in accordance with the Discovery Confidentiality Order already in place in this action; (ECF No. 164); and

IT IS FURTHER ORDERED that the special master and his assistant lawyer(s) shall not be subject to subpoena by any party; and

IT IS FURTHER ORDERED that the special master may impose on a party any noncontempt sanction provided by Rules 37 or 45 (including his own fees and expenses), and may

recommend a contempt sanction against a party and sanctions against a nonparty; and

SO ORDERED


JOSE L. LINARES
Chief Judge, United States District Court

cc: Hon. Joseph A. Dickson, U.S.M.J.